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PLEASE REPLY TO WEST ORANGE

October 13, 2006

Via E-mail and Regular Mail

Sarah Flanagan
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency
290 Broadway - 17th Floor
New York, New York 10007-1866

**Re: Diamond Alkali Superfund Site
Notice of Potential Liability for Response Actions
in the Lower Passaic River Study Area, New Jersey**

Dear Ms. Flanagan:

On behalf of ISP Chemicals LLC ("ISP") we are writing to respond to the June 8, 2006 General Notice Letter from the United States Environmental Protection Agency (the "USEPA") seeking contribution toward the payment of response costs related to the remediation and restoration of the 17 mile stretch of the Passaic River comprising the Lower Passaic River Study Area (the "Study Area"). In addition, USEPA requested that ISP join the "Cooperating Parties Group" and voluntarily participate in conducting and financing the CERCLA Remedial Investigation/Feasibility Study (the "Study").

USEPA alleges that during an investigation of the Study Area it has come to believe that hazardous substances were released from a facility located at 1 Main Street/11 Williams Street in Belleville, New Jersey ("Belleville Property") into the Study Area. ISP believes that it has substantial good faith defenses to the allegation that it is responsible for the environmental contamination which is the subject of the Study. ISP

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and its counsel have reviewed copies of the "Nexus Documents" allegedly linking ISP to the Study Area received from both the USEPA and LECG, LLC, the neutral retained by the Cooperating Parties Group to resolve PRP identification and allocation issues. As described below, the nexus documents do not support a claim against ISP.

ISP purchased the Belleville Property on March 31, 1992 pursuant to an Asset Purchase Agreement ("APA"). According to the Nexus Documents, the majority of alleged discharge events relied upon by the USEPA occurred prior to March 31, 1992, the date on which ISP purchased the property from Mallinckrodt Specialty Chemicals Company.

Further, according to the Agreement among certain Settling Parties and the USEPA (CERCLA Docket No. 02-2004-2011), sampling and assessment of the Passaic River during previous investigations revealed the presence of hazardous substances including 2,3,7,8-TCDD, DDT, 2,4-D, 2,4,5-T and 2,4,5-TCP, PCBs, PAHs, mercury, cadmium, copper, lead, nickel and zinc in the Passaic River and its sediments. A review of the nexus documents provided by USEPA and LECG indicates that ISP has no link to these constituents.

CERCLA Sec. 107 Liability states that "the owner and operator of a ... facility ... from which there is a release, or a threatened release **which causes the incurrence of response costs** ... shall be liable for" response costs. 42 U.S.C. 9607(a) (emphasis added). The focus, and indeed the entire purpose, of the Remedial Investigation being conducted at the property is to address pesticides, PCBs, dioxin and various metal compounds, none of which were utilized, no less discharged, during ISP's ownership of the Belleville Property. Therefore, no materials used by ISP at the Belleville Property are "causing the incurrence" of response costs. See United States v. Alcan Aluminum Corp., 964 F.2d 252, 270 (3rd Cir. 1992) ("If [a party] proves that the [hazardous substances] did not ... contribute to the release and the resultant response costs, then [the party] should not be responsible for any response costs."); Hatco Corp. v. W.R. Grace & Co.-CONN., 836 F. Supp. 1049, 1059 (D.N.J. 1993) (when apportioning responsibility for contamination, the court must explore the causation relationship and identify as a matter of fact the actions that led to the contamination at the site); United States v. Iron Mountain Mines, Inc., 987 F.Supp. 1263, 1269 (ED Ca 1997) (where no activity by a party contributed to the incursion of response costs, it bears no liability).

To the extent that USEPA believes, as set forth in the nexus documents, that PCBs or other materials used by prior owners of the Belleville Site discharged to the Passaic River and therefore are contributing to the incurrence of response costs, then those prior owners and operators should be the target of USEPA's (and in turn the Cooperating Parties Group's) efforts. Mallinckrodt, ISP's vendee, can be contacted at 675 McDonnell Blvd., St. Louis, MO 63042-1777.

ISP, both directly and through counsel, has participated in several good faith discussions with counsel for the Cooperating Parties Group (William Hyatt) and the neutral (Bill Hengemihle of LECG). By providing this good faith response, ISP does not, and shall not be construed to, admit in any way that it is liable or responsible for any

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costs or damages of any sort incurred by the USEPA or others relating to the Study Area. This response is made without prejudice to any position ISP may take in this matter or any other matter and without admission of any fact, liability, fault or responsibility for the environmental conditions associated with the Study Area. ISP expressly reserves all rights and defenses at law or equity that may apply.

If you have questions regarding this response or would like to discuss it at any time, please contact me at your convenience.

Very truly yours,

A handwritten signature in black ink, appearing to read "Diana L. Buongiorno", with a large, stylized flourish at the end.

Diana L. Buongiorno

DLB:dlb

c: Elizabeth Butler, Remedial Project Manager (via email only)
Ray Basso, Strategic Integration Manager (via email only)
William H. Hyatt, Esq., Coordinating Counsel
for the LPRSA Cooperating Parties Group (via email only)
Patricia L. Duft, Esq. - Mallinckrodt, Inc. (via fax to 314-654-6486)